

FORM TO BE USED BY PRISONERS IN FILING
A COMPLAINT UNDER THE CIVIL RIGHTS ACT,
42 U.S.C. § 1983
IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA

BRIAN JOSHUA BAKER

v.

CIVIL ACTION No. 14CV878

DURHAM S.E.T.,

CITY OF DURHAM,

DURHAM POLICE DEPARTMENT,

DETECTIVE J.E. FRANKLIN

I. PREVIOUS LAW SUITS

- A) HAVE YOU BEGUN OTHER LAWSUITS IN STATE OR FEDERAL COURT DEALING WITH THE SAME FACTS INVOLVED IN THIS ACTION OR OTHERWISE RELATING TO YOUR IMPRISONMENT? YES () NO (✓)

II. PREVIOUS *in forma pauperis* LAWSUITS

- A) WHILE INCARCERATED OR DETAINED IN ANY FACILITY, HAVE YOU FILED A LAWSUIT IN ANY FEDERAL COURT IN WHICH YOU WERE ALLOWED TO PROCEED *in forma pauperis* (WITHOUT PREPAYMENT OF FEES)? YES () NO (✓)

III. EXHAUSTION OF INMATE ADMINISTRATIVE REMEDIES

- A) DID YOU PRESENT THE FACTS OF EACH CLAIM RELATING TO YOUR COMPLAINT TO THE INMATE GRIEVANCE COMMISSION OR ANY OTHER AVAILABLE ADMINISTRATIVE REMEDY PROCEDURE? YES () NO (✓)

- B) IF YOUR ANSWER IS YES:

1. WHEN DID YOU FILE YOUR GRIEVANCE?

2. WHAT WAS YOUR GRIEVANCE?

3. DID YOU APPEAL ANY ADVERSE DECISION TO THE HIGHEST LEVEL POSSIBLE IN THE ADMINISTRATIVE PROCEDURE? YES () NO ()

C) IF YOUR ANSWER TO A IS NO, IDENTIFY THE CLAIM(S) AND EXPLAIN WHY NOT: NOT APPLICABLE

IV. PARTIES

A) PLAINTIFF(S)

BRIAN JOSHUA BAKER
219 S. MANGUM ST.
DURHAM, N.C. 27702

B) DEFENDANT(S)

DEFENDANT 1: DURHAM S.E.T. (SELECTIVE ENFORCEMENT)
TEAM
101 CITY HALL PLAZA
DURHAM, NC. 27701

DEFENDANT 2: CITY OF DURHAM
101 CITY HALL PLAZA
DURHAM, N.C. 27701

DEFENDANT 3: DURHAM POLICE DEPARTMENT
505 WEST CHAPEL HILL ST.
DURHAM, NC. 27701

DEFENDANT 4: DETECTIVE J.E. FRANKLIN
MEBAWE POLICE DEPARTMENT
116 WEST CENTER ST.
MEBAWE, N.C. 27302

V. STATEMENT OF CLAIM

ON THE MORNING OF OCTOBER 21ST, 2011 MEMBERS OF THE MEBANE POLICE DEPARTMENT ALONG WITH OFFICERS FROM THE DURHAM POLICE DEPARTMENT AND DURHAM S.E.T. EXECUTED A SEARCH WARRANT ON APARTMENT D6 1200 E. LEON ST. LOCATED IN THE CITY OF DURHAM.

MEBANE DETECTIVES C. HEADER AND J.E. FRANKLIN ALONG WITH A SERGEANT D. ROSENCRANS WERE INVESTIGATING A BREAKING AND/OR ENTERING OUT OF ALAMANCE COUNTY AND THE PLAINTIFF AND PLAINTIFF'S GIRLFRIEND, ANGELA BUTLER, WERE POSSIBLE SUSPECTS IN THE CASE.

THE APARTMENT WAS LEASED TO ANGELA BUTLER AND ONE MONDIE RUFFIN, BUT NEITHER WERE PRESENT ON THE MORNING OF THE 21ST. AROUND 10:30-11AM PLAINTIFF WAS AWOKEN BY A LOUD NOISE (LATER BELIEVED TO BE SOME TYPE OF COLLUSION GRENADE OR FLASH BANG), AND THEN THE SOUND OF GLASS BREAKING. DUE TO A PREVIOUS ARGUMENT WITH A NEIGHBORING MEXICAN FAMILY, PLAINTIFF FEARED THAT HIS LIFE WAS IN DANGER AND WAS INTENT ON RUNNING TO THE BACK DOOR AND JUMPING OFF OF THE BALCONY. THIS INTENT WAS INTERRUPTED AS PLAINTIFF GRABBED FOR THE REAR DOOR KNOB BY THE FRONT DOOR BURSTING IN FOLLOWED BY ABOUT SIX INDIVIDUALS DRESSED IN BLACK SUITS, FACE SHIELDS, AND CARRYING SHOTGUNS. THERE WERE NO IDENTIFYING MARKS, BADGES, INSIGNIA, OR NAME TAGS TO SHOW WHO THE INDIVIDUALS WERE. THE PLAINTIFF, HOWEVER, ASSUMED THEM TO BE POLICE OFFICERS.

AS THE TEAM SPREAD OUT INTO THE APARTMENT THEY BEGAN TO SHOUT, "GET DOWN! GET ON THE FLOOR! NOW!" PLAINTIFF INSTANTLY DROPPED TO HIS KNEES AND RAISED HIS HANDS ABOVE HIS HEAD AS A UNIVERSAL SIGN OF SURRENDER. PLAINTIFF WAS THEN THROWN TO THE FLOOR AND ONE OF THE OFFICERS ON THE TEAM BEGAN TO HIT PLAINTIFF IN THE FACE WITH HIS FIST AS HE SHOUTED, "QUIT RESISTING! QUIT RESISTING!" THE OFFICER THEN WRAPPED HIS ARM AROUND PLAINTIFF'S NECK AND BEGAN TO CHOKER PLAINTIFF. THE OFFICER FINALLY RELENTED ONLY TO PLACE PLAINTIFF'S WRISTS IN CUFFS BEHIND PLAINTIFF'S BACK AND THEN BEGIN TO CHOKER PLAINTIFF ONCE AGAIN.

AFTER BEING RELEASED AGAIN FROM THE CHOKER HOLD, PLAINTIFF WAS KICKED IN THE GROIN AREA, THEN JERKED UP, AND DRAGGED OUTSIDE OF THE APARTMENT. PLAINTIFF WAS SAT AGAINST APARTMENT D6 OUTER WALL. WHEN PLAINTIFF TRIED TO LOOK UP TO IDENTIFY HIS ATTACKER, THE OFFICER PUSHED PLAINTIFF'S HEAD DOWN AND SHOUTED IN PLAINTIFF'S EAR, "DON'T LET THEM CALL ME BACK UP HERE OR I'LL BUST YOUR ASS AGAIN! DO YOU HEAR ME?" PLAINTIFF REPLIED, "YES SIR." AND ONCE AGAIN TRIED TO IDENTIFY THE OFFICER ONLY TO HAVE PLAINTIFF'S HEAD PUSHED DOWN AGAIN.

THERE WERE SEVERAL POLICE OFFICERS DRESSED IN NORMAL POLICE ATTIRE STANDING AROUND OUTSIDE THE APARTMENT. AS THE S.E.T. OFFICER THAT ASSAULTED THE PLAINTIFF WALKED AWAY AND DOWN THE STAIRCASE, PLAINTIFF ASKED A FEMALE OFFICER STANDING NEARBY WITH SHOULDER LENGTH BLOND HAIR WHO THE S.E.T. OFFICER WAS. THE FEMALE OFFICER STATED THAT SHE COULD NOT GIVE OUT THAT INFORMATION. ALL PLAINTIFF WAS ABLE TO SEE OF THE OFFENDING OFFICER WAS A WHITE MALE WITH CLEAN SHAVEN FACE.

AFTER S.E.T. CLEARED THE APARTMENT, MEBANE AND DURHAM POLICE THEN SEARCHED THE APARTMENT. NOTHING WAS FOUND INSIDE THE APARTMENT TO DIRECTLY LINK THE PLAINTIFF WITH THE BREAKING AND/OR ENTERING OUT OF ALAMANCE COUNTY OR ANY OTHER CRIME. THE ONLY THING POLICE DID FIND WAS DRUG PARAPHENALIA AND A SMALL QUANTITY OF MARIJUANA LIKE SUBSTANCE. PLAINTIFF WAS NEVER PLACED UNDER ARREST FOR THESE CHARGES, ONLY GIVEN A PINK CITATION/SUMMONS SLIP. EVEN THE PARAPHENALIA AND SUBSTANCE WAS NOT FOUND IN THE POSSESSION OF THE PLAINTIFF.

ONCE THE APARTMENT WAS THOROUGHLY SEARCHED DET. J.E. FRANKLIN SWIRLED CUFFS AND THEN PLACED PLAINTIFF INTO THE FRONT SEAT OF AN UNMARKED CREAM COLORED DODGE CHARGER. DET. C. HEADER SAT IN THE BACK AS DET. FRANKLIN DROVE OUT OF DURHAM COUNTY, THROUGH ORANGE, AND INTO ALAMANCE COUNTY. WHEN PLAINTIFF ARRIVED AT THE MEBANE POLICE DEPARTMENT PLAINTIFF WAS PLACED INTO A LOCKED INTERVIEW ROOM. AFTER INCESSANT PLEAS FOR HELP DUE TO GROIN PAIN, DET. FRANKLIN FINALLY CALLED AN AMBULANCE FOR THE PLAINTIFF. ONCE THE E.M.T. ARRIVED AND CHECKED THE PLAINTIFF THE E.M.T. ADVISED DET. FRANKLIN THAT PLAINTIFF BE TAKEN TO THE LOCAL E.R. DET. FRANKLIN THEN DROVE PLAINTIFF TO ALAMANCE COUNTY REGIONAL HOSPITAL.

PLAINTIFF WAS ADMITTED INTO THE E.R. HANDCUFFED AND ESCORTED BY DET. FRANKLIN. WHILE IN THE E.R. PLAINTIFF WAS SEEN AND TREATED FOR TWO BLACK EYES, LACERATIONS ON THE INSIDE OF PLAINTIFF'S MOUTH, A BRUISED ESOPHAGUS, RINGING AND SLIGHT DEAFNESS TO THE RIGHT EAR, LACERATIONS ON BOTH ELBOWS, AND A BRUISED AND SWOLLEN TESTICLE.

ONCE RELEASED FROM THE HOSPITAL, DET. FRANKLIN DROVE PLAINTIFF TO THE ALAMANCE COUNTY JAIL WHERE PLAINTIFF WAS CHARGED WITH SEVERAL FELONIES AND A MISDEMEANOR AND PLACED UNDER A \$125,000 BOND.

SEVERAL DAYS LATER AFTER PLAINTIFF HAD CHANCE TO SPEAK WITH HIS MOTHER, DEBBIE VANDUZEE, ABOUT THE ASSAULT, MS. VANDUZEE CALLED THE DURHAM POLICE DEPARTMENT TO INQUIRE AS TO WHY HER SON HAD BEEN ASSAULTED. MS. VANDUZEE WAS TOLD THAT SHE WAS BEING TRANSFERRED TO THE "CAPTAIN OF THE S.W.A.T. TEAM" WHO TOLD HER THAT PLAINTIFF WAS ASSAULTED BECAUSE PLAINTIFF RESISTED ARREST.

VI. RELIEF

PLAINTIFF IS SUING DURHAM S.E.T., THE CITY OF DURHAM, AND THE DURHAM POLICE DEPARTMENT DUE TO THE FACT THAT THE DURHAM POLICE IS EMPLOYED BY THE CITY OF DURHAM AND IT IS THEIR COMMON PRACTICE TO SEND S.E.T. TO THESE KINDS OF SITUATIONS. PLAINTIFF IS SUING IN THEIR OFFICIAL CAPACITY AND IN THEIR INDIVIDUAL CAPACITY

PLAINTIFF IS SEEKING MONETARY DAMAGE DUE TO:

A) PAIN AND SUFFERING.

B) CONTINUED TREATMENT FOR POST TRAUMATIC STRESS DISORDER, DEPRESSION, FEAR OF LOUD NOISES, AND FREQUENT PANIC ATTACKS

C) LOSS OF HEARING IN PLAINTIFF'S RIGHT EAR

AND FOR THE SUM OF \$1,000,000.00 (ONE MILLION DOLLARS)

PLAINTIFF IS ALSO SEEKING INJUNCTIVE RELIEF IN THE FORM OF ALL OFFENDING MEMBERS OF THE ALTERCATION/ASSAULT WHO PARTICIPATED IN THE ASSAULT OR TRIED TO COVER IT UP BE REMOVED FROM LAW ENFORCEMENT.

PLAINTIFF IS SUING DETECTIVE J.E. FRANKLIN IN HIS OFFICIAL CAPACITY AND SEEKS INJUNCTIVE RELIEF IN THE FORM OF DEFENDANT FRANKLIN BEING REMOVED FROM LAW ENFORCEMENT.

RESPECTFULLY SUBMITTED THIS

22ND DAY OF APRIL, 2015

SINCERELY,



BRIAN JOSHUA BAKER
PLAINTIFF
219 S. MARION ST.
DURHAM, NC 27702